



## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 100**

**[Docket Number USCG-2016-0169]**

**RIN 1625-AA08**

**Special Local Regulation; Cumberland River, Mile 190.0 to 191.5; Nashville, TN**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a special local regulation for all waters of the Cumberland River beginning at mile marker 190.0 and ending at mile marker 191.5 from 9 a.m. until noon on July 30, 2016. This special regulation is necessary to provide safety for the participants in the “Music City SUP Race” marine event. This rulemaking prohibits persons and vessels from being in the special local regulated area unless authorized by the Captain of the Port Ohio Valley or a designated representative.

**DATES:** This rule is effective from 9 a.m. until noon on July 30, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0169 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Ashley Schad, MSD Nashville, Nashville, TN, at 615-736-5421 or at [Ashley.M.Schad@uscg.mil](mailto:Ashley.M.Schad@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

On January 28, 2016, the Nashville Paddle Company notified the Coast Guard that it will be conducting a rowing race from 9 a.m. to noon on July 30, 2016. The event will consist of at least 75 participants on various sized stand up paddle boards and kayaks on the Cumberland River. The Captain of the Port Ohio Valley (COTP) determined that additional safety measures are necessary to protect participants, spectators, and waterway users during this event. In response, on June 10, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) Special Local Regulation; Cumberland River, Mile 190.0 to 191.5; Nashville, TN (81 FR 37562).

There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this marine event. During the comment period that ended June 27, 2016 we received no comments.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with the marine event in this July 30, 2016, event will be a safety concern for the participants of the event. The purpose of this rule is to ensure safety of vessels and participants and the navigable waters in the special local regulation area before, during, and after the scheduled event.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published May 15, 2016. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM other than providing the final enforcement times and date.

This rule establishes a special local regulation for all waters of the Cumberland River beginning at mile marker 190.0 and ending at mile marker 191.5 from 9 a.m. until noon on July 30, 2016. The duration of the regulated area is intended to ensure the safety of vessels and participants and these navigable waters before, during, and after the scheduled 9 a.m. to noon marine event. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

#### **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. This rule restricts transit on the Cumberland River from mile

190.0 to 191.5, for a short duration of 3 hours on one day; Broadcast Notice to Mariners and Local Notices to Mariners will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and

Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulated area lasting 3 hours that will prohibit entry within the regulated area. It is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### **PART 100--SAFETY OF LIFE ON NAVIGABLE WATERWAYS**

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T08-0169 to read as follows:

§ 100.35T08-0169 Special Local Regulation; Cumberland River Mile 190.0 to Mile 191.5; Nashville, TN.

(a) Location. All waters of the Cumberland River beginning at mile marker 190.0 and ending at mile marker 191.5 at Nashville, TN.

(b) Enforcement period. This special local regulation will be enforced from 9 a.m. until noon on July 30, 2016.

(c) Regulations. (1) In accordance with the general regulations in §100.801 of this part, entry into this area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the Captain of the Port Ohio Valley or a designated representative. U. S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1-800-253-7465.

Dated: June 28, 2016.

**R. V. Timme,**  
*Captain, U.S. Coast Guard,*  
*Captain of the Port Ohio Valley.*

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